

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

ROBERT ROSS, Individually and On Behalf	:	No. 2:05-cv-00819-EAS-TPK
of All Others Similarly Situated,	:	(Consolidated)
	:	
Plaintiff,	:	
vs.	:	
	:	JUDGE SARGUS
ABERCROMBIE & FITCH COMPANY, <i>et al.</i> ,	:	MAGISTRATE JUDGE KEMP
	:	
Defendants.	:	

**MOTION OF DEFENDANT ABERCROMBIE & FITCH CO.
FOR LEAVE TO FILE SUR-REPLY MEMORANDUM IN OPPOSITION TO
PLAINTIFF'S MOTION TO COMPEL SPECIAL LITIGATION COMMITTEE
REPORT AND RELATED DOCUMENT**

Defendant Abercrombie & Fitch Co. moves the Court for leave to file the attached sur-reply memorandum in order to advise the Court of two incorrect statements of fact in the Reply Brief of Plaintiff in Support of its Motion to Compel Special Litigation Report and Related Documents.

Pursuant to S.D. Ohio Local Rule 7.3(b), Abercrombie has sought the consent of plaintiff, and plaintiff has no objection to filing of a sur-reply memorandum. Abercrombie likewise would have no objection to the filing by plaintiff of a sur-sur-reply memorandum if plaintiff wishes to do so and the Court grants such leave.

**VORYS, SATER, SEYMOUR AND PEASE
LLP**

By /s/ Philip A. Brown

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CERTIFICATE OF SERVICE

I served a copy of this motion upon the counsel listed on the attached service roster by electronic mail and first-class U.S. mail on September 29, 2009.

/s/ John J. Kulewicz

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